Office of Utilities Regulation

DIRECTIVE:

NON-COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS INFORMATION REQUIREMENTS

OFFICE OF UTILITIES REGULATION

June 02, 2010

DOCUMENT TITLE AND APPROVAL PAGE

DOCUMENT NUMBER: TEL2010002_DIR002

1. DOCUMENT TITLE:

DIRECTIVE FOR NON-COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS INFORMATION REQUIREMENTS.

2. PURPOSE OF DOCUMENT

To require DIGICEL, in accordance with the terms of this Directive, to comply with information requests made in a letter from the Office dated March 9, 2010 together with attachments thereto and captioned : CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS: INFORMATION REQUIREMENTS.
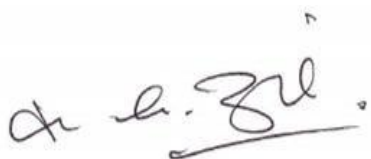
3. RECORD OF REVISIONS

Revision Number	Description	Date

4. APPROVAL

This document is approved by the Office of Utilities Regulation and the Instruction therein becomes effective **June 03, 2010.**

On behalf of the Office:

…………………………………..
Ahmad Zia Mian
Director General

June 02, 2010

OFFICE OF UTILITIES REGULATION

DIRECTIVE

TEL2010002_DIR002

(Issued pursuant to Section 10 of the Office of Utilities Regulation Act (as amended) and Section 4 of the Telecommunications Act (2000)

IN THE MATTER OF:

    (1)   THE TELECOMMUNCATIONS ACT (2000)

    (2)   OFFICE OF UTILITIES REGULATION ACT (AS AMENDED)

    (3)   NON-COMPLIANCE WITH CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS INFORMATION REQUIREMENTS

TO: DIGICEL JAMAICA, 10-16 GRENADA WAY, KINGSTON 5

WHEREAS the Office of Utilities Regulation ("the Office") is mandated, pursuant to Section 4 (1) (2) (3) and (7) of the Office of Utilities Regulation Act (as amended) ("the OUR Act"), to:

" 4. Functions of the Office.
    4. (1) … (a) regulate the provision of prescribed utility services by licensees or specified organizations;

    (b) …

    (c) conduct such research as it thinks necessary or desirable for the purposes of the performance of its functions under this Act;

    (d) …

    (e) subject to section 8A, carry out, on its own initiative or at the request of any person, such investigations in relation to the provision of prescribed utility services as will enable it to determine whether the interests of consumers are adequately protected.

    (2) The Office may, where it considers necessary, give directions to any licensee or specified organization with a view to ensuring that—

(a) the needs of the consumers of the services provided by the licensee or specified organization are met; and

(b) the prescribed utility service operates efficiently and in a manner designed to-

(i) …

(ii) …

(iii) afford to its consumers economical and reliable service.

(3) In the performance of its functions under this Act the Office shall undertake such measures as it considers necessary or desirable to—

(a) …

(b) protect the interests of consumers in relation to the supply of a prescribed utility service;

(c) …

(d) promote and encourage the development of modern and efficient utility services;

(e) enquire into the nature and extent of the prescribed utility services provided by a licensee or a specified organization…

(4) The Office shall have power to determine, in accordance with the provisions of this Act, the rates or fares which may be charged in respect of the provisions of a prescribed utility service….

…(7) The Office shall give reasons for any decision taken by it pursuant to subsection (4) (a) or (5), to any person affected or likely to be affected by that decision. **AND**

WHEREAS the Office, pursuant to Section 10 (1) of the OUR Act and Section 4 (4) of the Telecommunications Act (2000) ("the Telecoms Act") issued a request to DIGICEL for information contained in a letter dated **March 9, 2010** together with attachments thereto and captioned: **CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS: INFORMATION REQUIREMENTS**. For ease of reference, a copy of the said letter is attached hereto at **ANNEXURE#1**. **AND**

WHEREAS the aim of the Office's request for information pursuant to the said letter is to, inter alia:

a. allow the Office to execute its regulatory mandate pursuant to the OUR Act as well as the Telecoms Act;

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b. promote competition; and

c. protect the interest of consumers. **AND**

WHEREAS Section 4(4) of the Telecoms Act, states :

"Where the Office has reasonable grounds for so doing, it may for the purpose of its functions under this Act, require a licensee to furnish, at such intervals as it may determine, such information or documents as it may specify in relation to that licensee's operations and the licensee shall be given a reasonable time within which to furnish the information." **AND**

WHEREAS Section 10 of the OUR Act provides:

"10. Power to require returns.
10. (1) The Office may require a licensee or specified organization to furnish such information or submit such returns at such intervals as the Office may require in relation to the operations of a licensee or specified organization.

(2) A licensee or specified organization which fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding two million dollars." **AND**
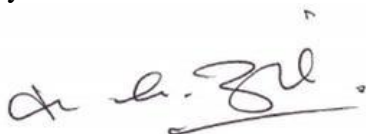
WHEREAS DIGICEL is in breach of its statutory obligations by virtue of its non-compliance with the Office's requests as made in its letter dated **March 9, 2010** and captioned **: CONSUMER PROTECTION AND QUALITY OF SERVICE FOR TELECOMMUNICATIONS: INFORMATION REQUIREMENTS**, which letter was issued pursuant to Section 4 of the Telecoms Act and Section 10 of the OUR Act.

The Office **HEREBY REQUIRES** by this Directive that DIGICEL, submit within ten (10) working days of the date of this Directive, all information requested in the said letter and attachments referred to above and attached as **ANNEXURE #1**.

AND FURTHER TAKE NOTICE that DIGICEL's failure to comply with this Directive shall render it liable in accordance with the provisions of Section 10 (2) of the OUR Act.

Dated this   2nd   day of   June   2010.

By Order of the Office:

Ahmad Zia Mian
Director General